

Cleanup and Redevelopment Program Redesign Summary

The MDEQ initiated a stakeholder process to review the current cleanup and redevelopment program and develop recommendations for program enhancements for the MDEQ's consideration¹. Using the recommendations received as the foundation we have prepared a proposed cleanup program redesign framework.

We have identified significant inefficiencies that result from having separate regulatory programs for leaking underground storage tanks (Part 213²) and other types of contaminated sites (Part 201³). We view the program redesign as a critical opportunity to integrate the state's cleanup programs into a more streamlined and efficient framework. The proposed program revisions will preserve the most effective and efficient elements of both current programs.

The proposed program revisions will assure that the cleanup and redevelopment program has strong incentives for reuse of contaminated property, including financial incentives and liability protection for new owners of these sites. The redesign maintains the causation standard for liability, continues to rely upon a risk-based cleanup process, and incorporates the recommendations regarding liability, including shifting the liability protection for new owners from the current baseline environmental assessment process to a "Due Care" focus.

The proposed remedial process re-focuses attention away from reliance on a "study/design/build" system that emphasizes the preparation of Remedial Action Plans (Part 201) and Corrective Action Plans (Part 213) in favor of identification and prioritization of risks and prompt response to the most significant risks. The proposal provides an emphasis on source removal and control in accordance with the Part 201 Discussion Group recommendations. Compliance is proposed to be defined as reaching an acceptable degree of risk reduction that results in appropriate protection of public health, safety, welfare and the environment. The proposal incorporates recommendations for reducing technical complexity, including reducing the number of cleanup categories to just two: residential and non-residential. The proposed revisions to the remedial process will afford liable parties the ability to choose among compliance alternatives, each offering a different degree of certainty and finality and different ongoing requirements. The remedial process will rely upon a substantially greater degree of self-implementation with DEQ conducting audits of work performed.

We intend to introduce the proposal in three segments. The initial segment will present the proposed redesign of liable party remedial obligations. The second segment will present the proposed revisions for due care obligations and liability protection. It will also recap the brownfield redevelopment recommendations that were implemented with revisions to Act 381 (Brownfield Redevelopment Financing) last December. This session is scheduled for December 18, 2008. The final segment will present proposed revisions for liability, compliance and enforcement, and will be scheduled for January 22, 2009.

After completing the presentations, we intend to initiate a collaborative effort to refine the proposal with a goal of having draft legislative language by mid-2009.

¹ The Discussion Group recommendations are contained in a report entitled Michigan's Part 201 Environmental Remediation Program Final Report and Recommendations. Please [click here](#) for the web page containing the Part 201 Discussion Group information.

² Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

³ Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.